

WILLIAM C. WHITMAN

v.

MARY SAMOSKA et al.

Submitted on Briefs April 29, 2010

Decided May 25, 2010

Panel: SAUFLEY, C.J., and LEVY, SILVER, MEAD, and JABAR, JJ.

MEMORANDUM OF DECISION

Mary Samoska and Estherann Hamilton appeal from a judgment of the Superior Court (Androscoggin County, *Wheeler, J.*) that dismissed several claims against them pertaining to a loan Samoska issued in 1989 and granted Samoska's counterclaim for foreclosure of the mortgage that secured the loan. Samoska and Hamilton challenge certain factual findings made by the Superior Court and the court's determination that the rate of interest established by 9-B M.R.S. § 432(1) (2009) applied.

It is an appellant's burden to ensure that the record on appeal is sufficient to permit us to adequately consider the issues raised. *See NCO Portfolio Mgmt., Inc. v. Folsom*, 2007 ME 152, ¶ 6, 938 A.2d 24, 26. Without a transcript or a statement of evidence in this case, we are bound to accept the Superior Court's factual findings and assume that they are supported by sufficient competent evidence in the record. *See Springer v. Springer*, 2009 ME 118, ¶ 8, 984 A.2d 828, 830; *see also Jeffs v. Dennis*, 2007 ME 129, ¶ 7, 931 A.2d 1055, 1057. Further, in the absence of a transcript or statement of the evidence, and because Samoska and Hamilton did not file a motion for additional findings of fact and conclusions of law on the issue pursuant to M.R. Civ. P. 52(b), we infer that the parties explicitly or implicitly consented to the Superior Court's *sua sponte* application of 9-B M.R.S. § 432(1). *See Ward v. Ward*, 2008 ME 25, ¶ 5, 940 A.2d 1063, 1064; *see*

also Bernier v. Merrill Air Eng'rs, 2001 ME 17, ¶ 22, 770 A.2d 97, 105; M.R. Civ. P. 15(b).

The entry is:

Judgment affirmed.

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William C. Whitman did not file a brief.